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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/723,514

11/26/2003

Rene Kunz

16613

8946

4859

7590

08/23/2004

MACMILLAN SOBANSKI & TODD, LLC
ONE MARITIME PLAZA FOURTH FLOOR
720 WATER STREET
TOLEDO, OH 43604-1619

EXAMINER

SALATA, ANTHONY J

ART UNIT

PAPER NUMBER

2837

DATE MAILED: 08/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/723,514

Applicant(s)

KUNZ ET AL.

Examiner

Jonathan Salata

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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UNITED STATES DEPARTMENT OF COMMERCE
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TRADEMARKS
Washington, D.C. 20231

Paper No:08172004

Serial Number: 10/723514

Filing Date: November 26,2003

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-6,9-13,16,17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoo et al (5360085) and Dobler et al (6128116) and Toyoshima et al (JP 54131237A).

1) Yoo et al teaches in figures 1-2, an elevator cab position sensor.

A tape 8 is placed in the hoistway. Magnets 10 are placed on the tape and read by sensors 22 to determine the elevator position. The sensors may be either magnetic or optical type detectors.

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Yoo et al does not illustrate a fixed tape or tape cover.

Dobler et al teaches that for improved speed detection/positioning within an elevator installation, it is advantageous to utilize tape readers as opposed to costly and high maintenance cams/rollers and to place the tape on the rails as speed of the elevator cars increases over the prior art systems.

3-6,10-13,17) Shown within the figure is the tape 29 positioned in a groove 15 on the T-rail 16. Dobler et al states that the position and number of tape elements or even the shape of the rail can be changed without altering the accuracy of the system.

Thus, to utilize a grooved rail with tape attached within Yoo et al would have been an obvious engineering design choice to one of ordinary skill in the art to improve speed detection and positioning.

Toyoshima et al teaches in figures 1-11, a selector tape for an elevator.

A car for an elevator on guide rails (not shown) contains a selector tape 4. The selector tape contains coded data for floor selection and positioning. A cover 11 (paint or coating ie. Non-magnetic) is applied to the tape to prevent noise.

Thus, to utilize a cover to prevent noise would have been an obvious engineering design choice to one of ordinary skill in the art.

2,9,16) Toyoshima et al does not state metallic cover but does state that any coating or pasting of another tape may be applied "or the like". Thus, the choice of material applied is considered a matter of convenience.

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3. Claims 7,8,14,15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoo et al., Dobler et al., Toyoshima et al as applied to claims 1-6,9-13,16,17 above, and further in view of Ma (6393360).

Yoo et al, Toyoshima et al and Dobler et al do not illustrate the cover details.

Ma teaches that for a vehicle positioning system it is advantageous in a passive detection system which has coded data embedded in the path (rail), to provide an overlapping cover to protect the coded data. See figures 7B,8B.

Thus, to utilize an overlapping cover to protect the coded data in a vehicle positioning system would have been an obvious engineering design choice to one of ordinary skill in the art.

4. Applicant's arguments filed 7-20-04 have been fully considered but they are not persuasive.

As stated above, Dobler et al teaches to fasten the tape for improved detection as the speed of elevator cars has increased over time as well as to place the tape in a "groove" on the rail.

Yoo et al teaches the substitution between magnetic and optical detection.

Toyoshima et al teaches to place a cover (of any type) on the tape to prevent noise.

Ma teaches that to further protect, a cover should overlap.

Ma teaches a cover protector for a sensor/detector arrangement in a vehicle environment such as would be true of an elevator and thus considered relevant art by the examiner.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the

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mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry of a general nature or relating to the **status** of this application or **filed papers** should be directed to the Group receptionist whose telephone number is (703) 308-0956.

Papers related to this application may be submitted to Group 2800 by facsimile transmission. Papers should be faxed to Group 2800 via the PTO 2800 Fax Center located at Crystal Plaza 4. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 O.G. 30 (November 15, 1989). The Group 2800 CP 4 Fax Center Before Final number is (703) 872-9318 or After Final number is (703) 872-9319.


For assistance in Patent procedure, fees or general Patent questions calls should be directed to the **Patents Assistance Center (PAC)** whose telephone number is **800-786-9199**. Assistance is also available on the Internet at www.uspto.gov.

For requesting **copies** of Cited Art, Office Actions or the like, or General Problem solving, calls should be directed to the **TC 2800 Customer Service Office** whose telephone number is **703-872-9317** or by fax at **703-872-9317**.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Jonathan Salata** whose telephone number is **(571) 272-2073**. The examiner can normally be reached on Monday through Thursday from 6:30 am to 2:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin, can be reached on (571) 272-2107.

ajs
August 17, 2004


JONATHAN SALATA
PRIMARY EXAMINER
ART UNIT 2837